

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

THOMAS G. WILSON

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1379

Decision No. CU 6112

Counsel for claimant:

Rosenberger, Petersen & Conway
By R. C. Petersen, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by THOMAS C. WILSON for \$66,899.00 based upon the loss of personal property and a stock interest in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and

debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except for property inherited or that acquired by gift. Claimant's spouse, whom he married on July 27, 1957 is not a national of the United States and any interests she might have in the property subject of this claim cannot be considered.

On the basis of the evidence of record, including affidavits and lists of personal property as submitted to the Internal Revenue Service, the Commission finds that claimant owned certain personal property in connection with a home at 24 Avenue C, La Puntilla, Miramar, Cuba; and further, that he solely owned certain personal property used at a clinic at 412 Calle 15, Vedado, Havana, Cuba.

The Commission finds that the property was taken on June 22, 1959, as asserted, subsequent to departure of claimant and his spouse from Cuba. The Commission further finds that as a result of said action THOMAS C. WILSON sustained a loss within the meaning of Title V of the Act. (See Claim of Jack Moss, Claim No. CU-0225, 25 FCSC Semiann. Rep. 52 [July-Dec. 1966].)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

HOME PERSONALTY

Claimant asserts claim in the amount of \$34,129.00 for personalty used in connection with the home. The record includes certain items of ladies'

apparel which are presumed to belong to his nonnational spouse. After deletion of these items, totaling \$2,940.00, the remaining total is \$31,189.00. It includes a listing of the following deposits:

Electric deposit	\$ 60.00
Telephone deposit	25.00
Bank account	4,800.00
Furniture and furnishings	26,304.00

Based on the entire record, and considering evidence as to the value of similar property in Cuba, the Commission finds that this property, including the deposits and bank account, had a value of \$31,189.00 on the date of loss.

CLINIC PERSONALTY

Claimant asserts claim in the amount of \$29,270.00 in connection with a podiatric clinic in Vedado. The record includes a listing of this property reflecting the following:

Bank account	\$ 6,000.00
Accounts Receivable	4,000.00
Furniture, equipment, etc.	19,270.00

The record also includes evidence of insurance coverage on the physical property in the amount of \$10,000.00. Claimant was asked to explain the discrepancy and list the equipment with date of purchase and cost. In response there were submitted certain invoices which are all the claimant had in his possession; and further, the Commission was informed that claimant carried additional insurance but the policies are not available. It is said that allowances in connection with the office equipment were made by Internal Revenue Service. Evidence in this connection was suggested but none has been submitted.

No evidence sufficiently probative in nature has been submitted in support of the asserted bank account and accounts receivable. Accordingly, claim based on these items is denied.

The Commission having examined the list of personalty and available invoices, as well as an affidavit indicating that the clinic operated for

about twelve years, concludes that the personalty had an average age of ten years. Such personalty is subject to depreciation at the rate of 5 per cent per year. However, in this instance, the Commission finds that it had a value of \$10,000.00 on the date of loss.

STOCK INTEREST

On the basis of the record, including the findings of Internal Revenue Service, the Commission finds that claimant purchased in 1956 10,000 shares of Trans-Cuba Oil Company for which he asserts a value of \$3,500.00. In our decision entitled the Claim of D. R. Wimberly (Claim No. CU-3417, which we incorporate herein by reference), we held that the properties owned or controlled by the Company were nationalized or otherwise taken by the Government of Cuba on November 23, 1959, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. In this instance, the Commission finds that claimant's stock interest was lost on June 22, 1959. We need not again detail here the reasons or the method used in determining the value per share of \$0.1198.

Accordingly, the Commission finds that claimant suffered a loss of \$1,198.00 in connection with his Trans-Cuba holdings.

In summary, the Commission concludes that claimant's losses on June 22, 1959, within the scope of Title V of the Act are as follows:

Household personalty and related items	\$31,189.00
Clinic personalty and related items	10,000.00
Trans-Cuba stock	<u>1,198.00</u>
	\$42,387.00


The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

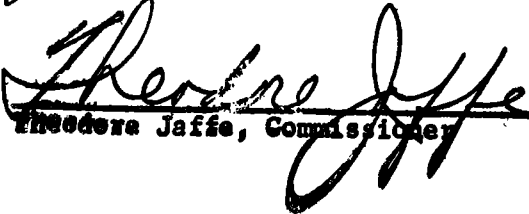
CERTIFICATION OF LOSS

The Commission certifies that THOMAS C. WILSON suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-two Thousand Three Hundred Eighty-seven Dollars (\$42,387.00) with interest at 6% per annum from June 22, 1959 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

MAR 17 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)